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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	CC Docket No. 96-128
Reclassification and Compensation	)	
Provisions of the Telecommunications Act	)	
of 1996	)	

OPPOSITION

U S WEST Communications, Inc. ("U S WEST"), through counsel and pursuant to Section 1.106(g) of the Federal Communications Commission's ("Commission") Rules,[1] hereby files its Opposition to the American Public Communications Council's ("APCC") Petition for Reconsideration ("Petition")[2] of the Common Carrier Bureau's ("Bureau") Memorandum Opinion and Order.[3] In its Petition, the APCC seeks reconsideration of the Bureau's clarification that local exchange carriers ("LEC") are required to provide payphone-specific coding digits only on tariffed payphone lines (e.g., U S WEST's Public Access Lines ("PAL")) and not on any other LEC-provided service (e.g., business, Centrex, and PBX lines) that may be connected to a payphone.

[1] 47 C.F.R. § 1.106(g).

[2] APCC Petition for Reconsideration filed Apr. 8, 1998.

[3] In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Memorandum Opinion and Order, DA 98-481, rel. Mar. 9, 1998 ("MO&O").

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The APCC asks the Bureau to reverse its clarification and find "that LECs must provide payphone-specific ANI [automatic numbering identification] coding digits for payphones, whether or not the exchange service provided is classified 'payphone line' service."[4] The APCC claims that reconsideration is justified for two reasons. First, it asserts that the Bureau's MO&O clarification of the scope of the LECs' obligation to provide payphone-specific digits conflicts with the language of the Commission's Reconsideration Order adopting this requirement.[5] Second, the APCC asserts that the Bureau's clarification conflicts with the 1996 Telecommunications Act's ("1996 Act") policy of promoting local competition.[6] As U S WEST demonstrates below, neither the 1996 Act nor the Commission's Reconsideration Order provide any support for APCC's assertions.[7] As such, the Bureau should deny APCC's Petition.

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[4] APCC Petition at 2.

[5] Id. at 2-3. And see In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Order on Reconsideration, 11 FCC Rcd. 21233, 21265-66 ¶ 64 (1996) ("Reconsideration Order"); vacated in part, Illinois Public Telecommunications Ass'n v. FCC, 117 F.3d 555, clarified, 123 F.3d 693 (D.C. Cir.).

[6] APCC Petition at 4.

[7] It is obvious from APCC's Petition that the primary motivation behind this Petition is that APCC's payphone service provider ("PSP") members in Minnesota and Iowa are seeking to maintain a cost advantage that they currently have over LEC PSPs. This advantage has arisen because independent PSPs or their affiliates have been able to provide payphone service by purchasing business lines and other LEC retail services at a discount and because U S WEST flat-rated PAL lines in Minnesota, traditionally, have been priced higher than business lines due to greater usage. The latter disincentive to using PAL lines in Minnesota has been removed with U S WEST's recent reduction in the PAL rate which went into effect on April 17, 1998. This tariff change reduced flat-rate PAL rates to the same level as flat-

I. THE BUREAU'S CLARIFICATION OF THE PAYPHONE-SPECIFIC CODING DIGIT REQUIREMENT DOES NOT CONFLICT WITH PRIOR COMMISSION PAYPHONE ORDERS

In its MO&O, the Bureau clarified that "the requirement to transmit payphone-specific coding digits applies only to payphone service provided by LECs to dumb, smart, and inmate payphones" and that "[i]t does not apply to any other LEC provided service such as business lines, PBX, or Centrex lines to which a payphone may be connected."[8] The APCC asserts that this clarification conflicts with the payphone-specific requirement as delineated in Paragraph 64 of the Commission's Reconsideration Order.[9] U S WEST disagrees.

The APCC contends a conflict arises because the Commission also stated in Paragraph 64 that "[w]e decline to require PSPs to use COCOT [customer-owned, coin-operated telephone] lines, as suggested by the RBOCs, because we have previously found that COCOT service is not available in all jurisdictions."[10] The APCC's construction of Paragraph 64's requirements is severely flawed. The fact that the Commission declined to require PSPs to use COCOT lines[11] when such service was not available in all places is hardly a logical basis for contending that LECs must provide payphone-specific digits on all lines to which a payphone might

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rate business service. See U S WEST Communications, Inc., Minnesota Tariff, Section 5 Pages 96-1 and 96-2, release 3, effective Apr. 17, 1998.

[8] MO&O ¶ 32.

[9] APCC Petition at 2-3. Reconsideration Order, 11 FCC Rcd. at 21265-66 ¶ 64.

[10] Id.

[11] A "COCOT" line is the same as a U S WEST PAL.

possibly be connected. Furthermore, since the release of the Report and Order,[12] LECs have been required to tariff payphone-specific access lines[13] and they are now available in all jurisdictions. As such, it is quite reasonable for the Commission to require PSPs to use payphone lines if they wish to be eligible for per-call compensation.

The Bureau also reiterated in its MO&O that "[t]he Payphone Orders did not intend to require that LECs provide payphone-specific coding digits to all types of lines to which a payphone could conceivably be attached."[14] The APCC can neither show that a conflict exists between the requirements of Paragraph 64 of the Commission's Reconsideration Order, and the Bureau's MO&O clarification nor can it demonstrate that the Commission ever intended to adopt an all encompassing payphone-specific coding digit requirement which would apply to all LEC local exchange services.[15] As such, APCC's Petition should be denied.

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[12] In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd. 20541 ("1996") ("Report and Order").

[13] Id. at 20614-15 ¶ 146. And see Reconsideration Order ¶ 163.

[14] MO&O ¶ 33.

[15] Not surprisingly, the APCC conveniently ignores the fact that the Bureau also clarified that LECs could only satisfy the requirement to transmit payphone-specific digits through the use of FLEX ANI or hard-coded ANI digits and that line information data base ("LIDB")-based approaches (i.e., originating line number screening ("OLNS")) did not comply. While this clarification was anticipated in the MO&O, conversion to FLEX ANI has imposed significant costs on U S WEST and other LECs which had previously planned to use OLNS to satisfy the payphone-specific coding digit requirement. It would be unreasonable, as the Bureau noted in its MO&O, to require LECs to extend FLEX ANI coverage to include all types of lines that might possibly be connected to a payphone.

II. THE BUREAU'S CLARIFICATION PROMOTES COMPETITION AMONG PAYPHONE SERVICE PROVIDERS AS IS REQUIRED BY SECTION 276 OF THE 1996 ACT

APCC turns to Section 251(c)(4) of the 1996 Act to bolster its claim that the Bureau's clarification conflicts with the 1996 Act's policy of promoting local exchange competition. The APCC is confused. Payphone service as provided to PSPs (e.g., U S WEST's PAL service) is not a "retail" service that is subject to resale under Section 251(c)(4).[16] If APCC is as concerned about competition among PSPs as it claims, it should look to the payphone-specific portions of the 1996 Act which are found in Section 276.

Section 276 of the 1996 Act contains nondiscrimination provisions which prohibit LECs from discriminating among PSPs or favoring their own PSP operations.[17] Section 276(a)(1) prohibits LECs from subsidizing their payphone service either directly or indirectly from local exchange or exchange access operations (e.g., removal of payphone costs from the carrier common line ("CCL") charge).[18] Section 276 also directs the Commission to adopt rules that "promote competition among payphone service providers and [to] promote the widespread deployment of payphone services to the benefit of the general public[.]"[19]

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[16] See Report and Order, 11 FCC Rcd. at 20615 ¶ 147. Even if PAL service were found to be subject to Section 251's resale requirement by a state regulatory agency, as is the case in some U S WEST states, it is U S WEST's position that there should be no discount on PAL service since no costs are avoided with resale.

[17] 47 U.S.C. § 276.

[18] 47 U.S.C. § 276(a)(1).

[19] 47 U.S.C. § 276(b)(1).

The outcome that the APCC is seeking in its Petition is hardly pro-competitive. If the APCC's Petition is granted, PSP's will continue to pay two different rates to connect their payphones to LEC networks in Minnesota (and other states with similar circumstances). One class of PSPs -- those owned by LECs -- purchase access at payphone line (e.g., PAL) rates. A second class -- independent PSPs -- can purchase access either at payphone line rates, at the business line rate,[20] or at even more favorable discounted business line rates ("resale"). If the Bureau grants the APCC's request it will perpetuate this situation and allow independent PSPs to gain access to LEC networks at more favorable rates than LEC PSPs. There is nothing in Section 276 which would support such a result. In fact, a reasonable reading of Section 276 would lead to exactly the opposite conclusion -- that all PSPs should pay the same rate to gain access to LEC networks. As such, there is no logical or legal basis for the APCC's assertion. It should be rejected as self-serving and contrary to the pro-competitive policies of Section 276.

III. IF THE BUREAU DETERMINES THAT PAYPHONE-SPECIFIC ANI DIGITS SHOULD BE PROVIDED ON OTHER THAN PAYPHONE LINES, ALL COSTS OF IMPLEMENTING SUCH A REQUIREMENT SHOULD BE RECOVERED DIRECTLY FROM PSPS USING SUCH LINES

In rejecting the Bureau's reasons for limiting the payphone-specific digit requirement to payphone lines, the APCC takes issue with the cost data submitted

[20] Effective April 17, 1998, U S WEST reduced its PAL rate in Minnesota to the same level as its business line rate. See note 7 supra.

in U S WEST's Ex Parte dated February 27, 1998.[21] U S WEST believes that the estimates contained in its Ex Parte are a reasonable approximation of the additional employee time required to expand FLEX ANI coverage to include all lines that could be connected to payphones in Minnesota and Iowa.[22] As Candace A. Mowers, a U S WEST Wholesale Carrier Marketing Product Manager, states in her attached Declaration, the cost of this additional work effort (i.e., primarily translations technician time) is estimated to be approximately $188,000 for Minnesota and $662,000 for Iowa (i.e., using a fully loaded hourly labor rate of $30.91 for a trained translations technician[23]). As Ms. Mowers points out in her Declaration, this cost estimate is a function of the number of end-offices, line class codes, digits to be transmitted (i.e., 70 and 29), and the amount of translations technician time. Needless to say, the ultimate accuracy of this estimate depends as much on the behavior of independent PSPs as it does on any factors that U S WEST has within its control.

Regardless of the level of costs to expand FLEX ANI, U S WEST believes that all such costs should be covered by the beneficiaries -- those PSPs connecting other than payphone lines to their payphones. Therefore, if the Bureau expands the FLEX ANI requirement to include more than payphone lines (e.g., PAL lines), it should also allow LECs to recover all additional costs associated with expanding

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[21] U S WEST Ex Parte, In the Matter of BellSouth Telecommunications Inc. Petition to Establish New Switched Access Rate Element, CCB/CPD File No. 98-4, filed Feb. 27, 1998 at 3-5.

[22] See attached Declaration of Candace A. Mowers.

[23] This rate does not include any general corporate overheads.

FLEX ANI coverage from those parties using other types of lines for payphone service. Any other result would be unfair to other PSPs, LEC shareholders, and other LEC customers.

IV. CONCLUSION

For the foregoing reasons, the Bureau should deny APCC's Petition for Reconsideration.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By: James T. Hannon

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Its Attorney

Of Counsel,
Dan L. Poole

April 20, 1998

DECLARATION OF CANDACE A. MOWERS

I, Candace A. Mowers declare that:

1. My name is Candace A. Mowers. I am employed by U S WEST Communications, Inc ("U S WEST"). I am a Product Manager in Wholesale Carrier Marketing with product management and implementation responsibility for Flexible Automatic Numbering Identification ("Flex ANI"). My business address is 1801 California Street, Room 2140, Denver, Colorado 80202.

2. In my position of Product Manager, one of my responsibilities is to implement Federal Communications Commission ("Commission") mandates. In this capacity, I am responsible for developing the product definition, determining implementation strategy, and leading large project teams which complete all necessary work to provision and bill the product. Flex ANI is one of the products for which I have implementation responsibilities. My role as the Project Lead for Flex ANI is to ensure that the implementation team stays on track to meet the deadlines and requirements set by the Commission. The team has developed a detailed project plan which lists all steps, resources and time frames needed to complete the project. The implementation team meets on a weekly basis to work through issues and monitor the status of the project. As the Project Lead, I am also responsible for monitoring the costs associated with Flex ANI implementation.

3. I have been an employee of U S WEST since 1972. Throughout my 25 years of experience in telecommunications, I have held several positions in the areas of pricing, competitive analysis, and regulatory. I earned a Bachelor of Science degree Summa cum laude in Business from Regis University. I will complete a Master of Science degree in Management at Regis University in December, 1998.

Prior to joining the Product Management Group in 1997, I worked as a Pricing Analyst from 1990 to 1997 in the State Access Pricing Group. In this capacity, I had regulatory support responsibilities for Switched Access Services in several states within the U S WEST region. My responsibilities included developing pricing strategy and complex pricing models, writing testimony and responding to interrogatories. In addition, I worked closely with the Public Utilities Commission Staffs in each of my states to educate them on Switched Access and current issues.

5. I have reviewed the following documents filed with the Commission in the payphone proceeding, CC Docket No. 96-128:

(a) Ex Parte Letter from James T. Hannon to John Muleta, Deputy Chief, Common Carrier Bureau, dated January 16, 1998;

(b) Ex Parte Letter from James T. Hannon to Robert Spangler, Chief, Enforcement Division, Common Carrier Bureau, dated February 25, 1998;

(c) Ex Parte filing of U S WEST, Inc., CCB/CPD File No. 98-4, dated February 27, 1998;

(d) BellSouth Telecommunications, Inc. Reply Comments, Petition to Establish New Switched Access Rate Element, CCB/CPD 98-4, dated February 11, 1998;

(e) Comments of American Public Communications Council, CCB/CPD 98-4, dated February 4, 1998;

(f) Memorandum Opinion and Order, CC Docket No. 96-128, released March 9, 1998;

(g) American Public Communications Council, Petition for Reconsideration, CC Docket No. 96-128, dated April 8, 1998; and

(h) U S WEST's Opposition to APCC's Petition for Reconsideration, dated April 20, 1998.

I am familiar with the information contained in these documents.

5. The information contained in U S WEST's Ex Parte letter of February 25, 1998, Ex Parte filing of February 27, 1998 and Opposition to APCC's Petition for Reconsideration is true and accurate to the best of my knowledge and belief.

6. The cost estimates for expanding Flex ANI coverage in Minnesota and Iowa which are contained in these documents were prepared at my request and under my supervision.

7. The Flex ANI deployment schedule for U S WEST that was submitted to the Commission in an Ex Parte Letter from James T. Hannon, dated January 16, 1998 was based on the assumption that the payphone-specific coding digit requirement is limited to lines such as U S WEST's

Public Access Lines ("PAL") which are specifically designated for payphone use. It is my opinion that U S WEST will be unable to meet this schedule if the Flex ANI requirement is expanded to cover lines other than PAL service.

8. In order to prepare U S WEST's February 27, 1998 Ex Parte, estimates of the cost of expanding Flex ANI coverage in Minnesota and Iowa were prepared under my supervision to include those lines other than PALs which could be used for payphone service in those states. These estimates were prepared based on the assumption that an independent Payphone Service Provider might choose to provide payphone service in areas served by any of U S WEST's 48 end-office switches in Iowa and 78 end-office switches in Minnesota. If U S WEST is required to expand Flex ANI coverage to non-PALs that might be served out of these offices, it would require an additional 6,084 hours of translations work in Minnesota and 21,408 in Iowa. This equates to an additional cost of approximately $188,000 in Minnesota and $662,000 in Iowa if it is assumed that the fully loaded labor rate for an hour of translations time costs $30.91.

9. The additional costs of expanding Flex ANI coverage are almost solely due to increased translations work efforts. Each line class code ("LCC") must be changed in each switch to reflect the transmission of the 70 and 29 digits. LCCs reside in each switch and identify the restrictions such as 976 blocking, that are placed on calls made from a particular line. If the Flex ANI requirement is expanded to include business lines in Minnesota, 39 additional LCCs must be created in the 78 end-offices in Minnesota.

U S WEST estimates that it requires approximately one hour of translations time per LCC per switch per coding digit (i.e., 70 or 29) to implement Flex ANI. For Minnesota, this would equate to an additional 6,084 hours of translations time to expand the coverage of Flex ANI to include business lines. In Iowa, Flex ANI expansion would require an additional 21,408 hours of translations time if PBX, Centrex and business lines were included.

10. This concludes my declaration.

Pursuant to 47 C.F.R. Section 1.16, I declare under the penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed this 20th day of April, 1998.

Candace A. Mowers
Product Manager
U S WEST Communications, Inc.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 20th day of April, 199*, I have caused a copy of the foregoing **OPPOSITION OF U S WEST COMMUNICATIONS, INC.** to be served, via United States Mail, postage pre-paid, upon the persons listed on the attached service list.

Kelseau Powe, Jr.

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(CC96128J-cos

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